

1935

## Book Review (reviewing Frederick Campbell Woodward, Cases on the Law of Sales (1933))

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### Recommended Citation

George Gleason Bogert, "Book Review (reviewing Frederick Campbell Woodward, Cases on the Law of Sales (1933))," 48 Harvard Law Review 537 (1935).

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he is apprehensive of the future of trusts if the idea gains ground that the beneficiary's interest is a form of ownership of property. He is troubled with the view taken by a majority of the House of Lords in the *Archer-Shee* cases,<sup>4</sup> which he interprets to mean that the beneficiary's interest "is something a good deal more than a *jus in personam*; that it, in fact, approximates very closely to a *jus in rem*. . . ."<sup>5</sup> To the reviewer it has seemed fairly clear that the beneficiary's interest is something of this sort, and is none the worse for that.<sup>6</sup> The important question is not whether the beneficiary has a form of ownership, whether he has rights *in rem*, but what the characteristics of equitable ownership may be. In view of the differences of opinion among American lawyers as to the nature of the interest of the beneficiary, it is rather curious that the author should say that a difference now exists between English and American law on this question. It is true that in the second *Archer-Shee* case the House of Lords reached the conclusion that in view of an ancient statute in the state of New York and the expert testimony offered as to the effect of that statute, the law of New York is different from the English law as declared in the first *Archer-Shee* case. It may be suggested that even a finding by the House of Lords as to the law of the state of New York is hardly conclusive as to "the American law" in the forty-eight states, on a question which is largely one of juristic philosophy.

AUSTIN WAKEMAN SCOTT.\*

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CASES ON THE LAW OF SALES. By Frederic Campbell Woodward. Third edition, by Lawrence Vold.<sup>1</sup> West Publishing Co. 1933. Pp. xxxi, 988. \$5.50.

Mr. Vold's edition differs from Mr. Woodward's edition of 1924 in that it gives about 317 cases *in extenso* and about 409 citations to and condensations of cases in footnotes, as against 262 full cases and 266 footnote cases in the earlier book. About 100 cases printed in full in the 1924 edition are reduced to note form, and more than 150 new cases have been introduced by Mr. Vold. These new cases are in large part American decisions handed down since 1924 and frequently are in construction of the Sales Act. The cases retained have been edited to reduce their length so as to permit about forty per cent more cases of all kinds in approximately the same number of pages. The arrangement of topics differs but little from the 1924 edition. A few new groupings are added, such as, for example, the cases on auctions, open price agreements, and leases. The footnotes, usually longer than those of the older edition, are generally in digest form instead of by way of presenting problems. The references to law review material are generous.

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<sup>4</sup> *Baker v. Archer-Shee*, [1927] A. C. 844; *Archer-Shee v. Garland*, [1933] A. C. 212.

<sup>5</sup> P. 289.

<sup>6</sup> See Scott, *The Nature of the Rights of the Cestui Que Trust* (1917) 17 COL. L. REV. 269. But see Stone, *The Nature of the Rights of the Cestui Que Trust* (1917) 17 COL. L. REV. 467.

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A wholly new feature consists of extracts from books on marketing problems and practices, including some illuminating paragraphs from Professor Llewellyn's writings. These are attached by way of notes and inserted in an appendix. Some of the more common commercial documents are printed in full in the appendix. These include a conditional sales contract, bills of lading, a trust receipt, and a lease of goods.

An examination of the whole book and a use of the first half of it with a class during the past few weeks lead the reviewer to believe that the revision has much to commend it. It contains more material than the old book and guides the reader to many of the important case, statute, and law review developments since 1924. The reduction of many old cases to notes and the inclusion of 150 new cases give freshness to the subject. In general the changes show good judgment. The sidelights on the practical aspects of marketing are in many cases useful.

Some minor adverse criticisms might be suggested. Several of the extracts from books on business and economics seem to verge on irrelevant truism or platitude. For example, in connection with a simple case on passage of property under a contract for the sale of specific rice, the author quotes a Mr. Duncan as saying: "Goods are made and goods are handled to satisfy human wants. The sum total of human wants is the possible market for products. Into every consideration of every commodity therefore, enters the element of demand. In fact, goods cannot be analysed apart from the market. There is, therefore, a vital interrelation between the market and the product. It is not logical to attempt to analyze a commodity simply as a thing in itself, because it is desirable only in so far as it is useful."<sup>2</sup> Furthermore, there are too many cases involving mere analysis of facts and not enough decisions where new legal principles are developed. It hardly seems necessary to use as many as twenty-nine cases on the passage of property to specific goods and twenty-eight on unascertained goods in order to develop the few simple rules of law involved. Half of this material might well have been omitted and the space given over to problems of law less fully treated, as, for example, those connected with documents of title.

It seems of doubtful wisdom to use the opinions of the New York City Court,<sup>3</sup> the New York Supreme Court at special term<sup>4</sup> or at appellate term<sup>5</sup> when opinions of the higher appellate courts are readily obtainable for similar purposes. Some of the older cases seem to have been emasculated in reëditing. Thus, *Frech v. Lewis*<sup>6</sup> is shortened to such an extent that the important waiver question is not well treated, and from *Harkness v. Russell*<sup>7</sup> is omitted a history of the earlier debate about the validity of conditional sales.

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<sup>2</sup> P. 14.

<sup>4</sup> P. 344.

<sup>3</sup> P. 353.

<sup>5</sup> P. 397.

<sup>6</sup> 218 Pa. 141, 67 Atl. 45 (1907), reported at p. 65.

<sup>7</sup> 118 U. S. 663 (1886), reported at p. 190.

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